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**STATE OF HAWAII
PUBLIC UTILITIES COMMISSION**

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September 29, 2015

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 - 12th Street, SW
Washington, DC 20554

Karen Majcher
Vice President of the High Cost and Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 14-58, Annual State-Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 Code of Federal Regulations ("C.F.R.") Section 54.314

Dear Ms. Dortch and Ms. Majcher:

Hawaiian Telcom, Inc. ("HTI"), a local exchange carrier; Sandwich Isles Communications, Inc. ("SIC"), a local exchange carrier; Coral Wireless, LLC, dba Mobi PCS ("Mobi"), a commercial mobile radio service provider; and Pa Makani LLC, dba Sandwich Isles Wireless ("Pa Makani"), a commercial mobile radio service provider, are designated as eligible telecommunications carriers ("ETC") in the State of Hawaii ("Hawaii").¹ As further discussed in this letter and the enclosed Decision and Order ("D&O") No. 33167, due to uncertainty regarding whether SIC and Pa Makani have used and will use the USF high-cost support for the purposes for which the support is intended, consistent with 47 C.F.R. § 54.314(a), certification to the FCC and the USAC could not be made at this time.

Designated ETCs may receive federal universal service fund ("USF") high-cost support ("High-Cost Support"), and a "carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended" as provided under Section 254 (e) of the Telecommunications Act of 1996 ("Intended Use of USF Support").

The Hawaii Public Utilities Commission ("commission") has established and updated annual certification requirements applicable to Hawaii ETCs in D&O No. 30932, in Docket No. 2011-0052, issued on December 28, 2012.

By Order No. 32752, the commission opened Docket No. 2015-0083 to determine whether state designated ETCs in Hawaii participating in the federal USF high-cost support program should be certified by

¹The commission designated: HTI as an ETC on December 4, 1997, in Decision and Order No. 16111, in Docket No. 1997-0363; SIC as an ETC on December 9, 1998, in Decision and Order No. 16737, in Docket No. 1998-0317; Mobi as an ETC on February 23, 2007, in Decision and Order No. 23275, in Docket No. 2005-0300; and Pa Makani as an ETC on April 10, 2012, in Decision and Order No. 30309, in Docket No. 2011-0145.

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the commission in 2015 pursuant to 47 C.F.R. § 54.314(a). Docket No. 2015-0083 consolidates the 2015 ETC high-cost certifications and included all ETCs receiving high-cost USF support as parties, Mobi, HTI, SIC, and Pa Makani.

The commission reviewed and considered the record, and approved the annual certification for HTI and Mobi, in Docket No. 2015-0083, by D&O No. 33167, filed on September 28, 2015, as listed in the table below. The commission determined that, due to uncertainty regarding whether SIC and Pa Makani have used and will use the USF high-cost support for the purposes for which the support is intended, consistent with 47 C.F.R. § 54.314(a), certification to the FCC and the USAC could not be made at this time.

2015 Commission Approved ETC Certifications

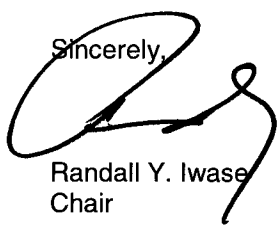
| Applicant | Study Area Code |
|-----------|-----------------|
| HTI | 623100 |
| Mobi | 629002 |

Pursuant to 47 C.F.R. § 54.314(a), the commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that the telecommunications carriers listed in the table above are eligible to receive High-Cost Support, and that all High-Cost Support provided to these carriers in Hawaii was used in the preceding calendar year (2014) and will be used in the coming calendar year (2016) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. See the enclosed D&O No. 33167.

If this letter does not fully satisfy the requirements for state certification of carriers to receive federal universal service support, we respectfully request a waiver of the October 1, 2015 deadline to correct any deficiencies.

Please contact Delmond J.H. Won, Executive Officer, at (808) 586-2020 to address any questions on this matter.

Sincerely,



Randall Y. Iwase
Chair



Enclosure

c: Jeffrey T. Ono, Division of Consumer Advocacy (w/o enc.)
Steven P. Golden, HTI (w/o enc.)
Clifford K. Higa, Esq., SIC and Pa Makani (w/o enc.)
Peter Gose, Mobi (w/o enc.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----In the Matter of----

PUBLIC UTILITIES COMMISSION

DOCKET NO. 2015-0083

Instituting a Proceeding to
Investigate Whether Designated
Eligible Telecommunications
Carriers Participating in the
High-Cost Program of the
Universal Service Fund Should be
Certified By the Commission
Pursuant to 47 Code of Federal
Regulations § 54.314(a).

DECISION AND ORDER NO. 33167

2015 SEP 28 P 12:10
PUBLIC UTILITIES
COMMISSION

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

| | | |
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| -----In the Matter of----- |) | |
| |) | |
| PUBLIC UTILITIES COMMISSION |) | Docket No. 2015-0083 |
| |) | |
| Instituting a Proceeding to |) | Order No. 33167 |
| Investigate Whether Designated |) | |
| Eligible Telecommunications |) | |
| Carriers Participating in the |) | |
| High-Cost Program of the |) | |
| Universal Service Fund Should be |) | |
| Certified By the Commission |) | |
| Pursuant to 47 Code of Federal |) | |
| Regulations § 54.314(a). |) | |
| _____ |) | |

DECISION AND ORDER

The objective of this docket is for the commission to:

(1) determine whether the eligible telecommunications carrier ("ETC") Parties¹ have each sufficiently complied with the annual ETC requirements ("Annual Certification Requirements") established by the commission in Decision and Order No. 30932,

¹The "ETC Parties" to this proceeding are (1) HAWAIIAN TELCOM, INC. ("HTI"); (2) SANDWICH ISLES COMMUNICATIONS, INC., ("SIC"); (3) SIC's affiliate PA MAKANI LLC, dba SANDWICH ISLES WIRELESS ("Pa Makani" or "SIW"); and (4) CORAL WIRELESS, LLC, dba MOBI PCS ("Mobi"). The "Parties" to this proceeding are the ETC Parties and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). See Order No. 32752 Initiating Investigation, filed on April 7, 2015, ("Order Initiating Investigation") at 4-5. No persons moved to intervene or participate without intervention in this docket. See Hawaii Administrative Rules ("HAR") § 6-61-57(3).

filed on December 28, 2012, in Docket No. 2011-0052 ("Order No. 30932"); and (2) determine whether to certify to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC") that all federal high-cost support provided to the ETCs in the State of Hawaii ("State") participating in the federal high-cost support program of the universal service fund ("USF") (i.e., HTI, SIC, Mobi, and Pa Makani) was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with Title 47 of the Code of Federal Regulations ("C.F.R.") § 54.314(a) ("§ 54.314(a) certification").

I.

Background

On April 7, 2015, the commission instituted this investigation to determine whether State designated ETCs participating in the high-cost support program of the USF should be certified by the commission in 2015, pursuant to 47 C.F.R. § 54.314(a).² As the commission noted in that order,

²See Order No. 32752 Initiating Investigation ("Order Initiating Investigation" or "Order No. 32752") at 1.

the federal rules require state commissions that desire ETCs to receive USF high-cost support to annually submit a certification to the FCC and the USF administrator, USAC, that the ETCs have used and will use the support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.³

In its Order Initiating Investigation, the commission established procedural deadlines for this proceeding, based on certain FCC filing deadlines, including the October 1, 2015 federal deadline for state certification of USF high-cost support program recipients.⁴

The ETC Parties each subsequently filed (1) their annual certification requirements ("ACR") reports; (2) responses to the Consumer Advocate's July 6, 2015 information requests ("IRs"); and (3) copies of their annual reporting requirements consistent with 47 C.F.R. § 54.313(i).

The Order Initiating Investigation established July 24, 2015, as the deadline for the Parties to file responses to

³Order Initiating Investigation at 2. See also 47 C.F.R. § 54.314(a).

⁴On April 28, 2015, the commission, on its own motion, issued a protective order to govern the classification, acquisition, and use of trade secrets and other confidential information produced in this docket. See Protective Order No. 32816, filed on April 28, 2015.

issued IRs. On July 31, 2015, the Consumer Advocate filed a Motion for Enlargement of Time to File Statement of Position ("Motion for Enlargement"), wherein it stated that it had received from SIC, only "partial responses" to its IRs, on July 27, 2015.⁵ On August 12, 2015, the commission issued Order No. 33070, Granting Motion for Enlargement of Time to File Statement of Position ("Order No. 33070").⁶ Thereafter, the Consumer Advocate timely filed its Statement of Position ("SOP"). On August 20, 2015, SIC, Pa Makani, and Mobi filed their responses to the Consumer Advocate's SOP.

In its SOP, the Consumer Advocate concludes: that HTI and Mobi have provided sufficient information to justify their certification as state designated ETCs participating in the high-cost support program of the federal USF for 2015, pursuant to 47 C.F.R. § 54.314(a); and that additional information is necessary to adequately support the certification of SIC and Pa Makani.⁷

For the reasons which follow, the commission, by this Decision and Order: (1) determines that HTI and Mobi have each

⁵Consumer Advocate's Motion for Enlargement at 3.

⁶Order No. 33070 extended the following deadlines: Simultaneous Statements of Position deadline extended to August 17, 2015; and Simultaneous Reply Statements of Position deadline extended to August 20, 2015.

⁷Consumer Advocate's SOP at 3.

sufficiently complied with the annual ETC certification requirements referenced above; (2) certifies to the FCC and the USAC that HTI and Mobi have used and will use the USF high-cost support for the purposes for which the support is intended, consistent with 47 C.F.R. § 54.314(a); (3) determines that SIC and Pa Makani have each complied with the annual ETC certification requirements; and (4) determines that due to uncertainty regarding whether SIC and Pa Makani have used and will use the USF high-cost support for the purposes for which the support is intended, consistent with 47 C.F.R. § 54.314(a), that certification to the FCC and the USAC cannot be made at this time.

II.

Discussion

In Order No. 30932, the commission adopted the Annual Certification Requirements for State designated ETCs participating in the high-cost program of the USF.⁸ These requirements superseded the annual ETC certification requirements previously adopted by the commission on an interim basis in Order No. 30230, filed on February 27, 2012, in Docket No. 2011-0052, which amended the

⁸These requirements do not apply to ETCs designated by the commission for the limited and sole purpose of participating in the USF Lifeline program, known as Lifeline-only ETCs. See Decision and Order No. 30932 at 9-13 and 32.

commission's formerly adopted ETC certification requirements in "Decision and Order No. 22228," filed on January 17, 2006, in Docket No. 05-0243.

The Annual Certification Requirements (individually, "Reporting Requirement") adopted by the commission in Order No. 30932 are as follows:

A. Federal Reporting Requirements Applicable to All ETCs Other Than Lifeline-Only ETCs

The following federal reporting requirements shall apply to all ETCs in Hawaii other than Lifeline-only ETCs:

1. Provide a copy of all of the ETC's current year filings to the FCC required by 47 C.F.R. Sections 54.313 (annual reporting requirements for high-cost recipients) and 54.1009 (annual reports).
2. Any carrier affected by the cap shall provide a discussion on whether the carrier has sought or plans to seek a waiver from the \$250/line/month cap on universal service support as specified in 47 C.F.R. § 54.302. If a waiver has been requested, provide the status of the waiver.

B. Additional Hawaii Reporting Requirements Applicable to All ETCs Other Than Lifeline-Only ETCs

The following additional reporting requirements shall apply to all ETCs in Hawaii other than Lifeline-only ETCs:

1. Provide the percentage of all out-of-state troubles cleared within twenty-four hours of the time such troubles are reported. The standard for this is a minimum of ninety-five percent cleared within twenty-four hours.

2. Provide the number of customer trouble reports per one hundred lines per month. The standard for this is no more than six customer trouble reports per one hundred lines per month.
3. Provide a certification that the carrier will promptly notify its customers, and as appropriate, law enforcement and fire agencies that will be affected when its service will be interrupted for scheduled repairs or maintenance, or if the occurrence of an interruption in service is otherwise known to the carrier.
4. Any ETC that is already filing with the commission the information detailed in Paragraphs Nos. 1 to 3, above, on an annual or more frequent basis, is not required to resubmit that information.

Pursuant to 47 C.F.R. § 54.314(a), "States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Universal Service Administrator and the FCC stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

To assist with the identification of the benefactors of federal high-cost support, excluding frozen Interstate Access Support ("IAS") that is not required to be used for deploying broadband services, ETCs shall provide the following information:

1. The number of locations or customers in each wire center or census block within its ETC service area for the previous calendar year and the anticipated number of locations or customers in each wire center or census block for the coming calendar year;

2. The services available to locations or customers in each wire center or census block within its ETC service area for the previous calendar year and the anticipated services available to locations or customers in each wire center or census block for the coming calendar year; and
3. In addition to the information provided on its progress report pursuant to 47 C.F.R. § 54.313(a)(1):
 - a. Identify all capital, operating and maintenance expenditures for which the carrier has received universal high-cost support for the previous calendar year, broken down to the wire centers or census blocks, as appropriate.
 - b. An update on the status of projects that were planned for the previous calendar year. For each project, provide: the amount of universal high-cost support utilized; a discussion of whether competitive bidding was utilized; a discussion of whether any project related contracts were awarded to entities affiliated to the carrier or in which an officer of the entity is related to an officer of the carrier; a discussion of whether the project plans were changed, and if so, the reasons why; maps detailing the location of the project as well as the wire centers or census blocks of the affected customers; an explanation of the project and how it was used to improve service quality, coverage, or capacity for the intended benefactors; data supporting improvements in service quality, coverage, or capacity. Beginning July 1, 2013, separate progress reports shall be provided for voice and broadband service, to the extent required by federal law.

- c. For the coming calendar year, identify all anticipated capital, operating, and maintenance expenditures on projects that the carrier plans to seek federal high-cost support for, broken down to the wire center level or census block, as appropriate;
 - d. For the coming calendar year, maps detailing the location of the project and the wire center or census block of the affected locations or customers, an explanation of the project and how it will be used to improve service quality, coverage, or capacity for the intended benefactors, and the data supporting the quantification of the benefactors. Beginning June 1, 2013, separate progress reports shall be provided for voice and broadband service to the extent required by federal law; and
 - e. If in the final year of high-cost support, plans for the following (i.e., future) calendar years are not required.
4. Pursuant to 47 C.F.R. § 54.320, provide a certification that the carrier will retain, for at least ten years, all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules and that these documents will be available upon request to the FCC and any of its bureaus or offices, Universal Service Administrative Company, and their respective auditors.
- C. Requirements for an Incumbent Local Exchange Carrier or a Rural Local Exchange Carrier

To confirm whether the carrier is or will charge a limited monthly access recovery charge on its wireline service, carriers are to provide a list of the monthly access

recovery charge for each of the carrier's class of service.

Order No. 30932 at 9-13 (citation omitted).

In addition, the commission required that ETCs providing service on Hawaiian Home Lands provide redacted, non-confidential copies of their annual ETC certification reports to the Department of Hawaiian Home Lands ("DHHL") and the OHA.⁹ The commission's review of each of the ETC Parties' filings submitted for certification to receive USF high-cost support are discussed in the sections below.

A.

HTI and Mobi

HTI is the State's incumbent local exchange carrier ("LEC"), providing a "comprehensive slate" of local and intraLATA telecommunication services, statewide. In 1997, the commission approved HTI's application for designation as an ETC to receive federal USF support, effective January 1, 1998.¹⁰

Mobi is authorized by the FCC and the commission to provide commercial mobile radio service, or wireless

⁹See Order No. 30932 at 32.

¹⁰See In re GTE Hawaiian Telephone Company, Incorporated, Docket No. 97-0363, Decision and Order No. 16111, filed on December 4, 1997. HTI was formerly known as GTE Hawaiian Telephone Company, Incorporated.

telecommunications service, throughout the State.¹¹ In 2007, the commission designated Mobi as an ETC for the service areas of HTI and SIC.¹²

Both HTI and Mobi individually filed their annual certification reports with the commission on May 1, 2015,¹³ requesting that the commission certify to the FCC and USAC that they are eligible to receive USF support in accordance with the FCC's rules.

¹¹See In re Coral Wireless, LLC dba Mobi PCS, Decision and Order Nos. 21744 and 23234, filed on April 14, 2005, and January 31, 2007, in Docket Nos. 05-0018 and 2006-0457, respectively.

¹²See In re Coral Wireless, LLC dba Mobi PCS, Decision and Order No. 23275, filed on February 23, 2007, in Docket No. 05-0300.

¹³See Hawaiian Telcom, Inc.'s Annual Certification Requirements Report for the Year Ending December 31, 2014; Confidential Attachments A-E; Certification of Steven P. Golden; Verification; and Certificate of Service, filed on May 1, 2015 (collectively, "HTI's Report"). Consistent with the commission's requirement, a copy of HTI's Report was served on the DHHL and the OHA. See HTI's Report, Certificate of Service.

See 2015 Annual Certification Report of Coral Wireless, LLC d/b/a Mobi PCS, Certification Statement Pursuant to FCC Order No. 01-157, and Certificate of Service (collectively, "Mobi's Report"). Consistent with the commission's requirement, a copy of Mobi's Report was served on the DHHL and the OHA. See Mobi's Report, Certificate of Service at 2.

1. HTI

With regard to the applicable certification requirements set forth in Order No. 30932, HTI provided the necessary information, or indicated how the requirements are currently inapplicable. For instance, with respect to Reporting Requirement A(1) regarding the reporting required by 47 C.F.R. § 54.313, HTI states that it will file with the commission a complete copy of its Annual Report for High-Cost Recipients on July 1, 2015, in accordance with the Regulatory Schedule in the Order Initiating Investigation.¹⁴ Further, with respect to Reporting Requirement A(2) regarding the \$250/line/month cap on USF support as specified in 47 C.F.R. § 54.302, HTI states that it is not affected by the cap, and therefore, the reporting requirement is inapplicable.¹⁵

Moreover, in response to Reporting Requirements B(4)(1) through B(4)(3), HTI provides information regarding:

- (1) the number of its locations or customers in each wire center within its service area as Confidential Attachment A;
- (2) the services available to locations or customers

¹⁴On June 18, 2015, HTI filed copies of its FCC Form 481 which was submitted and certified by HTI to USAC, with a copy sent to the FCC on June 17, 2015. On June 23, 2015, HTI filed its Rate Floor Data Collection Form and certification relating to voice services, which was also submitted to the FCC and to the USAC.

¹⁵See HTI's Report at 5.

in each wire center or census block within its service area as Confidential Attachment B; (3) all capital, operating, and maintenance expenditures for which high-cost support was received, by wire center or census block, as Confidential Attachment C; and (4) updates on the status of projects planned for the previous calendar year as Confidential Attachment D.¹⁶ Included among other things in HTI's Report is the Certification of its Vice President, External Affairs, Steven P. Golden, who provides the necessary certifications regarding notification of planned service interruptions and retention of records in response to Reporting Requirements B(3) and B(4)(4).¹⁷ Finally, in response to Reporting Requirement C (applicable to the incumbent LEC or a rural LEC), HTI states that it initiated an access recovery charge ("ARC") on its wireline services, effective July 3, 2012, and provides its current ARC rates.¹⁸

In its SOP, the Consumer Advocate found that HTI provided sufficient information to justify its certification as a state

¹⁶On May 1, 2015, HTI filed confidential attachments A-E; the information is included in the confidential attachments, and thus, shall not be further identified herein.

¹⁷See HTI's Report, Certification of Steven P. Golden at 1-2.

¹⁸See HTI's Report at 9.

designated ETC participating in the high-cost support program of the federal USF for 2015, pursuant to 47 CFR § 54.314(a).¹⁹

HTI did not submit a reply to the Consumer Advocate's SOP.

Based on the foregoing, the commission concludes that HTI has sufficiently complied with the Annual Certification Requirements adopted in Order No. 30932. As noted by the Consumer Advocate, HTI has provided the requisite information and certifications mandated by the commission, as applicable. The commission points out that HTI has not been involved in any federal investigation relating to the propriety of its monetary expenditures, and/or tax fraud, during the course of this docket, and as such, concludes that there is no uncertainty as to whether all federal high-cost support provided to HTI was used and will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a).

HTI, having complied with the annual ETC certification requirements, and there being no uncertainty as to whether all federal high-cost support provided was used and will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended,

¹⁹See Consumer Advocate's SOP at 3.

pursuant to 47 C.F.R. § 54.314(a), the commission concludes that certification by it of HTI should be provided in 2015.

2. Mobi

With respect to the Reporting Requirements, Mobi provided necessary information or indicated how the requirement is inapplicable.²⁰ In response to Reporting Requirements B(1) and B(2), Mobi provided information regarding: (1) the percentage of all out-of service troubles cleared within 24 hours; and (2) the number of customer trouble reports per 100 lines per month as confidential information.²¹ Mobi also submitted information regarding (1) the number of customers and the services it provides in each wire center or census block; (2) information regarding its capital, operating, and maintenance expenditures; and (3) an update of its projects planned for the previous calendar year for which it received USF high-cost support, in response to Reporting Requirements B(4)(1) through B(4)(3).²²

²⁰Certain requirements were provided or elaborated on in Mobi's response to the Consumer Advocate's IRs.

²¹The information is included in Mobi's confidential Attachment filed on May 1, 2015, and as such, shall not be further identified herein.

²²The information is included in Mobi's confidential Attachment filed on May 1, 2015, and as such, shall not be further identified herein.

Finally, Mobi included as part of its report the Certification of its Chief Financial Officer, Mark Woelfel, who certifies, among other things, the following:

All federal universal service support funds received by Mobi PCS during the current calendar year will be used in a manner consistent with Section 254(e); that is, for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The company will continue to comply for the period January 1, 2015, through December 31, 2015, to be eligible for federal universal service support.

Mobi's Report, Certification Statement Pursuant to FCC Order No. 01-0157, at 2.

In its SOP, the Consumer Advocate found that Mobi provided sufficient information to justify its certification as a state designated ETC participating in the high-cost support program of the federal USF for 2015, pursuant to 47 CFR § 54.314(a).

On August 20, 2015, Mobi filed a reply to the Consumer Advocate's SOP, wherein it stated its concurrence with the Consumer Advocate's findings.

Based on the foregoing, the commission concludes that Mobi has sufficiently complied with the Annual Certification Requirements adopted in Order No. 30932. As noted by the Consumer Advocate, Mobi has provided the requisite information and certifications mandated by the commission, as applicable. The commission points out that Mobi has not been involved in any

federal investigation relating to the propriety of its monetary expenditures, and/or tax fraud, during the course of this docket, and as such, concludes that there is no uncertainty as to whether all federal high-cost support provided to Mobi was used and will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a).

Mobi, having complied with the annual ETC certification requirements, and there being no uncertainty as to whether all federal high-cost support provided was used and will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a), the commission concludes that certification by it of Mobi should be provided in 2015.

B.

SIC and Pa Makani

SIC, a rural LEC, is authorized by the commission to provide intrastate telecommunications services in the State on lands administered by the DHHL.²³ In 1998, the commission

²³See In re Sandwich Isles Communications, Inc., Decision and Order No. 16078, filed on November 14, 1997, in Docket No. 96-0026.

designated SIC as an ETC for the service areas consisting of lands administered by the DHHL.²⁴

Pa Makani, an affiliate of SIC, is authorized by the commission to provide wireless telecommunications services in the State.²⁵ In 2012, the commission designated Pa Makani as an ETC for SIC's study area.²⁶

Both SIC and Pa Makani individually filed their annual certification reports with the commission on May 1, 2015,²⁷ requesting that the commission certify to the FCC and USAC that

²⁴See In re Sandwich Isles Communications, Inc., Decision and Order No. 16737, filed on December 9, 1998, in Docket No. 98-0317.

²⁵See In re Pa Makani LLC, dba Sandwich Isles Wireless, Decision and Order, filed on August 4, 2011, in Docket No. 2011-0131.

²⁶See In re Pa Makani LLC, dba Sandwich Isles Wireless, Decision and Order No. 30309, filed on April 10, 2012, in Docket No. 2011-0145.

²⁷See SIC's Annual Certification as an Eligible Telecommunications Carrier; Attachments "1" - "8"; and Certificate of Service, filed on May 1, 2015 (collectively, "SIC's Report"). Consistent with the commission's requirement, a copy of SIC's Report was served on the DHHL and the OHA. See SIC's Report, Certificate of Service.

See Pa Makani's Annual as an Eligible Telecommunications Carrier; Attachments "1" - "7"; and Certificate of Service, filed on May 1, 2015 (collectively, "Pa Makani's Report"). Consistent with the commission's requirement, a copy of Pa Makani's Report was served on the DHHL and the OHA. See Pa Makani's Report, Certificate of Service.

they are eligible to receive USF support in accordance with the FCC's rules.

1. Reporting Requirements

With respect to the Reporting Requirements, both SIC and Pa Makani provided necessary information or indicated how the requirement is inapplicable.²⁸ In response to Reporting Requirements B(1) and B(2), both SIC and Pa Makani provided information regarding: (1) the percentage of all out-of service troubles cleared within 24 hours; and (2) the number of customer trouble reports per 100 lines per month.²⁹ SIC and Pa Makani also submitted information regarding (1) the number of customers and the services it provides in each wire center or census block; (2) information regarding its capital, operating, and maintenance expenditures; and (3) an update of its projects planned for the previous calendar year for which it received USF high-cost support, in response to Reporting Requirements B(4)(1) through B(4)(3).³⁰

²⁸Certain requirements were provided or elaborated on in SIC's and Pa Makani's responses to the Consumer Advocate's IRs.

²⁹The information is included in SIC's Report at 6-7, and in Pa Makani's Report at 5.

³⁰The information is included in Pa Makani's Report at 6-8, and SIC's and Pa Makani's confidential Attachments, individually filed on May 1, 2015. The latter shall not be further identified herein.

Finally, the companies included as part of their reports:

a. SIC's Certification of its President, Janeen Ann Olds, who certified, among other things, the following:

All federal universal service support funds received by [SIC] during the current calendar year will be used in a manner consistent with Section 254(e); that is, for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The company will continue to comply for the next calendar year in order to be eligible for federal universal service support regardless of the rule under which that support is provided.

SIC's Report, Certification Statement Pursuant to FCC Order No. 01-0157, at 1; and

b. Pa Makani's Certification of its Manager, and the President of Waimana Enterprises, Inc.,³¹ Albert S.N. Hee, who certifies, among other things, the following:

All federal universal service support funds received by Pa Makani LLC dba Sandwich Isles Wireless during the current calendar year will be used in a manner consistent with Section 254(e); that is, for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The company will continue to comply for the next calendar year in order to be eligible for federal universal service support regardless of the rule under which that support is provided.

³¹According to the record, Waimana Enterprises, Inc. is the parent company of SIC.

Pa Makani's Report, Certification Statement Pursuant to FCC Order No. 01-0157, at 1 (footnote omitted).

SIC and Pa Makani contend that they "have met all of the requirements established by the Commission in Docket No. 2011-0052,"³² and add that SIC has "provided support that all high-cost funds are being used properly."³³ Based thereon, SIC and Pa Makani conclude that they should be certified by the commission as USF high-cost ETCs.³⁴

2. Use of Federal High-Cost Support

The commission recognizes that SIC and Pa Makani have proceeded through the Reporting Requirements "checklist" and either provided information to meet each of the requirements, or indicated how the requirements are inapplicable. Nevertheless, the commission emphasizes that the Reporting Requirements do not wholly comprise the criteria used to determine whether certification is to be granted to a USF high-cost support program participant. As enunciated in Order No. 32752, the commission must also determine whether to

³²SIC's and Pa Makani's "Response to the Division of Consumer Advocacy's Statement of Position Dated August 17, 2015," filed on August 20, 2015 ("RSOP"), at 2.

³³RSOP at 8.

³⁴RSOP at 2-3.

provide to the FCC and USAC the certifications required under 47 C.F.R. § 54.314(a).³⁵

While all of the ETC Parties have furnished similar information and certifications to address the two issues in this docket, there is a factor that distinguishes SIC and Pa Makani from HTI and Mobi, namely, the recent conviction of Mr. Hee³⁶ on July 13, 2015, in federal court.³⁷ According to the Consumer Advocate, Mr. Hee was convicted on seven counts of tax fraud.³⁸

The Consumer Advocate provided references reflecting recent reductions in USF funding, and indicated that, pursuant to 47 C.F.R. §54.8(e)(1), the FCC may take action against SIC if there

³⁵Pursuant to 47 C.F.R. § 54.314(a), "States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

³⁶In addition to serving as Pa Makani's Manager and Waimana's President, the Consumer Advocate's SOP at 4 states that at one time, Mr. Hee was also the President of SIC.

³⁷Consumer Advocate's SOP at 4.

³⁸Consumer Advocate's SOP at 4; see United States v. Hee, Cr. No. 14-00826 SOM (D. Haw. July 13, 2015), ECF No. 1:14-cr-00826-SOM. The commission observes that there may be an appeal or other post-trial proceedings concerning the conviction.